

**SEC. 10-1.2700 GENERAL REGULATIONS**

## Sections:

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**SEC. 10-1.2705 PURPOSE.**

These general regulations apply to all districts and to all uses permitted in the districts. The provisions are intended to amplify and to supplement district regulations. In the event of conflict with the specific district regulations, whichever regulations are more restrictive shall apply, unless otherwise determined by the Planning Director.

**SEC. 10-1.2710 CERTAIN USES NOT PERMITTED.**

**Cemeteries.** The use of property for cemeteries, memorial parks, mausoleums, columbariums, or other places for the burial or other deposit of human dead is not such a use as is permitted under the provisions of this ordinance, provided, however, that any property which on March 24, 1959 was being used or held for use for any one or more of the purposes mentioned herein, or any property annexed to the City of Hayward subsequent to said date, which at the date of annexation, is being used or held for use for any one or more of such purposes, may be continued to be used for such purposes. Crematoriums are permitted only as stipulated above or associated directly with mortuaries.

**SEC. 10-1.2715 CERTAIN USES PERMITTED.****a. Governmental Agencies and Public Utilities.**

The provisions hereof shall not apply to towers, poles, lines, pipelines, canals and similar distribution and transmission facilities maintained by a governmental agency, or by a public utility in accordance with applicable regulations of the Public Utilities Commission of the State of California within rights-of-way, easements, franchises, or ownerships of such governmental agencies or public utilities, with the exception of cellular telephone transmission towers which shall comply with the provisions of Chapter 10, Article 13 of the Hayward Municipal Code.

**b. Telecommunication Facilities.**

Telecommunications facilities are allowed subject to the requirements of this ordinance and those contained in Chapter 10, Article 13 of the Hayward Municipal Code.

c. **Temporary Construction Facilities.**

The use of land for offices, sheds, construction trailers, sleeping quarters for security personnel, structures and storage in connection with ongoing construction work for commercial, industrial and multi-family residential development, and single-family subdivisions may be used as approved by the Planning Director.

d. **Temporary Use.**

A "Temporary Use" may be permitted in specified zoning districts, subject to a 12-month maximum time limit, and subject to issuance of an Administrative Use Permit. Two one-year extensions may be considered, subject to Planning Director approval and applicable notification procedures.

**SEC. 10-1.2720 SPECIAL LOT REQUIREMENTS.**

No parcel of land shall hereafter be reduced or divided so as to provide less than the minimum lot size or dimensions required in the district in which such land is situated unless otherwise authorized by provisions of this ordinance and/or the Subdivision Regulations.

a. **Minimum Lot Frontage.**

Except as provided herein, each lot shall have a minimum frontage of 35 feet.

b. **Lot Frontage Exception for Flag Lot(s).**

In the case of a flag lot(s) that has been approved in accordance with the provisions of the Chapter 10, Article 3, of the Hayward Municipal Code (Subdivision Ordinance), minimum frontage requirements may be reduced as follows:

- (1) Frontage for one lot shall be 22 feet, with access via a 16-foot-wide strip of land that provides for a 12-foot-wide paved travelway;
- (2) Frontage for two or more lots shall be 28 feet, with access via a 24-foot-wide strip of land that provides for an 18-foot-wide paved travelway.
- (3) As determined by the Planning Director or other approval authority, where feasible, adjoining flag lots may share a common access so long as the above standards are met.
- (4) The use of a flag lot(s) should generally be avoided where other lot designs are possible and they should not be used solely to increase the maximum number of lots. See City Standard Detail #SD-109 and Design Guidelines for additional flag lot criteria.

c. **Lot Size Exception for Certain Substandard Lots.**

Any lot or parcel less than the minimum lot size or dimensions required may nevertheless be used as a building site if the lot or parcel was shown of record by the County Recorder as a lawfully created separate lot or parcel on the date the lot became substandard. In addition, either of the following circumstances must exist:

- (1) The lot or parcel is not less than 80 percent of the size and average lot width requirements of the zoning district; or

- (2) The lot or parcel is less than 80 percent of the size and average lot width requirements of the zoning district and there was no land abutting the lot or parcel under the same ownership on the date the lot became substandard.

d. **Lot Size Exception for Lots made Substandard by Official Plan Line.**

Any lot or parcel made sub-standard in size or average lot width by an official plan line shall be deemed to comply with minimum requirements of area or average lot width required herein.

e. **Lot Size Exception for Lots made Substandard by Rezonings from Agricultural District to Agricultural Combining Districts.**

Any lot or parcel made substandard in size or average lot width by a rezoning from an A (Agricultural) District to an AB (Agricultural Combining) District shall be deemed to comply with minimum requirements of area or average lot width required herein.

**SEC. 10-1.2725 SPECIAL YARD REQUIREMENTS.**

Except as herein provided, every required yard shall be open and unobstructed and shall not be reduced or diminished in area so as to be smaller than prescribed by this ordinance. All uses shall be conducted indoors unless a use permit for outside storage has been approved.

a. **Yards Measured from Official Plan Line.**

Wherever an official plan line has been established for any street or future right-of-way, required yards shall be measured from such line.

b. **Yard Calculations.**

Open area required for one building, lot, or use shall not be calculated as required open area or yard for any other building, lot or use. Except where part of an approved development plan, or authorized by other regulation herein or the Planning Director, no structure shall be located in a required yard area.

c. **Yards on Dual Frontage Lots.**

Where the front and rear of a lot both have street frontage on approximately parallel streets, no above-ground structure shall be located closer to either street than the distance constituting the required front yard, except on those parcels where street access is restricted by regulations of a public authority, in which case building additions (not accessory structures) may be located within the yard where street access is restricted subject to requirements for rear yards.

d. **Yard Exceptions - Garages on Slopes.**

- (1) Wherever the difference in elevation exceeds 5 feet between the front yard setback line and:
- (a) the elevation of the existing or planned street grade, or
  - (b) the elevation at the rear line of a front yard,

Or:

- (2) Wherever the difference in elevation exceeds 2½ feet between the side street property line and the rear line of a side street yard,

Then, the horizontal distance from any garage or parking space in no case shall be less than 5 feet from the property line or an official plan line. This exception shall not apply on those streets where no on-street parking is permitted along the lot frontage unless a minimum of 2 additional spaces are provided on site in conformance with all required yard and design requirements.

e. **Yard Exceptions - Overhangs, Stairways, Chimneys, Open Porches and Architectural Features.**

Architectural features such as cornices, eaves, open porches, bay windows, and canopies may extend 2 feet into any required side yard and may extend 5 feet into any required front or rear yard. Chimneys, media niches combined with chimneys (which shall not exceed 10 feet in width), landing places, or outside open stairways may project 3 feet into any required yard.

f. **Yard Exceptions - Vision Clearance.**

On a lot situated at the intersection of two or more streets, nothing shall be erected, placed, planted, or allowed to grow in such a manner as to be in violation of Ordinance No. 100 C.S., as amended, Hayward Traffic Code, Sections 9.01 through 9.05, relating to Obstructions to Visibility at Intersections Prohibited, as the same are now in effect or which may hereafter be amended or replaced.

g. **Yard Exceptions - Fences, Hedges, Walls.**

**Fence Height.**

- (a) In all OS, A, FP, RNP, and RS Districts, fences, hedges, and walls may be constructed to a height of 6 feet in any side or rear yard, and to a height of 4 feet in any portion of a front or side street yard, except that where the rear or side yard is contiguous to commercially or industrially developed or zoned land, freeway, flood control channel, parking lot or arterial street, a maximum 8-foot-high fence or wall may be permitted. For the RS District, an 8-foot-high fence or wall may be permitted adjacent to any non-residential zoning District.
- (b) Fences, hedges, and walls on through lots shall be limited to a height of 4 feet in any portion of the front yards unless determined by the Planning Director that up to a height of 6 feet across a front property line acting as a rear property line would not compromise the safety of motorists and pedestrians nor the aesthetic value of the streetscape.
- (c) Fences or walls required to surround and enclose public utility installations are not limited as to height in any district.
- (d) In all multi-family, commercial, or central city districts, no fence or wall shall be located in any required front or side street yard except as part of an approved development plan or if approved by the Planning Director.

h. **Yard Exceptions - Accessory Buildings and Uses.**

- (1) In conjunction with single-family development located on parcels zoned for same, and in zoning districts where single-family homes are permitted:
  - (a) Accessory buildings not used for parking and not exceeding 14 feet in height and 120 square feet in area and detached from the main buildings, when located in area other than the required front yard (i.e., in side or rear yard area), shall be placed no closer than 3 feet from the side and rear property lines.
  - (b) Accessory buildings or carports exceeding 120 square feet in area or open parking spaces shall be located no closer than 5 feet from the side and rear property lines.
  - (c) Accessory building(s), garage(s), and one-story home additions may not cumulatively occupy more than 40 percent lot coverage of a required rear yard.
- (2) For legal, conforming residences in other districts, setbacks for accessory buildings when located between the rear of the main building and the rear lot line may be placed 5 feet from the side and rear property lines or within the building envelope; and when located between primary structures and the right-of-way, all front and side yard setbacks shall be met.
- (3) For other zoning districts where residential uses are permitted, carports in conjunction with multi-family development may be placed 5 feet from rear and side property lines when there would be no negative visual or noise impact on the adjacent use, as determined by the Planning Director.

i. **Yard Exceptions - Narrow Lots.**

A required side yard may be reduced to 3 feet adjacent to an access driveway installed in conjunction with a multi-family development where the parcel is less than 51 feet in width.

j. **Special Yards - Structures on Same Lot.**

In R, A, and CO Districts, no primary structure shall be located less than 10 feet from another primary structure nor located less than 8 feet from an accessory structure, except that an accessory structure may be 6 feet from a single-family dwelling.

k. **Special Yards - Lots with Approved Private or Easement Access.**

The required minimum yards for a lot which has indirect access via an approved private access or an easement to a public street shall be the same as that required for a lot which has direct access onto a public street.

l. **Special Yards - One-Story Additions, Single-Family Dwellings.**

Reduction of the rear yard to 10 feet for one-story additions to single-family dwellings is permitted provided the required rear yard is not reduced by more than 20 percent and provided the cumulative coverage of the required rear yard does not exceed 40 percent.

m. **Special Yards - Flag Poles, Towers, Antennas, Satellite Earth Stations.**

- (1) Flag poles less than 25 feet in height which display the American flag and permitted commercial flags, may be located in any yard of any district but in no case shall they be located closer than 5 feet to a property line.

- (2) Radio and television antennas and other wireless telecommunications facilities shall comply with the requirements of this ordinance and Chapter 10, Article 13 of the Hayward Municipal Code.

n. **Special Yards - Swimming Pools, Hot Tubs, Spas.**

In any R, residential PD, A, or CO District, swimming pools, hot tubs, and spas may be located in any yard other than the required front or side street yard, provided that no wall line of a pool shall be closer than 5 feet from any property line.

o. **Special Yards - Decks.**

In conjunction with a single-family dwelling in any R District:

- (1) Decks less than 30 inches in height may be located in any rear or side yard but no closer than three feet to the rear or side property line.
- (2) Decks located in the front or side street yards shall not exceed 12 inches in height unless approved by the Planning Director or other approval authority.
- (3) Decks 30 inches or more shall conform to normal yard requirements.

p. **Special Yards – Handicap Accessibility.**

Ramps shall meet setback requirements of each zoning district. Exceptions shall be made for reasonable accommodation where no practical alternative exists and where building/fire code requirements are met.

q. **Front Yards - Driveway Width and Coverage.**

- (1) Driveway width, regardless of the number of driveways, shall not exceed 20 feet in front of the garage, except for 3-car garages where the width shall not exceed 26 feet. In addition, for access to a recreational vehicle storage area adjacent to a dwelling, a maximum 10-foot-wide driveway may be located on the opposite side of the lot from the garage, and outside the required side yard.
- (2) For lots 70 or more feet in width, the Planning Director may approve a greater driveway width if the Planning Director determines the design of the driveway is aesthetically pleasing and compatible with the lot terrain and adjacent development, and will not create a pedestrian or vehicular hazard. For single-family homes, the total paved surface for vehicle parking, storage, and access in required front yard shall not exceed 50 percent.
- (3) For single-family homes, a curved driveway (“Hollywood driveway”) is permitted on lots that are 100 feet or more in width, and where item #(2) above is met.

**SEC. 10-1.2730 SPECIAL HEIGHT REQUIREMENTS.**

a. **Height - Airport.**

Height provisions of airport or air approach regulations shall govern when in conflict herewith or in absence of provisions for such height regulation herein.

b. **Height - Exceptions.**

- (1) Chimneys, cupolas, flagpoles, elevator shafts, radio and television towers, wind machines, and similar mechanical or architectural appurtenances, if attached to a

building shall not exceed a height of 15 feet unless authorized by the Planning Director or other approval authority for two-story dwellings or dwellings located on hillsides. If not attached to a building, they shall not exceed 25 feet in height unless authorized by the Planning Director or other approval authority.

- (2) Church steeples may be exempted from the height requirements as long as the steeples are in scale with the design of the church/religious facility and surroundings, as determined by the Planning Director or other approval authority.

c. **Height - Accessory Building.**

Unless otherwise specified in the District Regulations, an accessory building shall not exceed one story in height

**SEC. 10-1.2735 SPECIAL STANDARDS AND CONDITIONS FOR CERTAIN USES.**

Special standards and conditions as set forth below are applicable to uses enumerated in this Section and listed in the individual districts. Departure or variation from these standards is permitted only when it can be established by the applicant that the intent and purpose of the district or the necessary findings for permit approval, as specified in this ordinance, are not compromised. Where warranted by ordinance regulations or to implement official City policy, standards of development may be required that exceed those listed in this Section.

a. **Adult Entertainment Activity Regulations.**

(1) **Purpose.**

In adopting these regulations it is recognized that certain types of adult entertainment activities possess objectionable operational characteristics which, when concentrated, have a deleterious effect upon adjacent areas. It is also recognized that locating adult entertainment activities in the vicinity of facilities frequented by minors will cause the exposure of adult material to minors who, because of their immaturity, may be adversely affected by them. Special regulations of sex-oriented, adult entertainment businesses is necessary to insure that adverse effects will neither contribute to the blighting or downgrading of surrounding neighborhoods nor have an adverse effect on minors.

(2) **Definitions.**

For the purpose of these regulations, certain terms and words shall have the following meanings:

- (a) **Adult Entertainment Activity.** An activity which is characterized by an emphasis on depicting, describing or relating to "specified sexual activities" or "specified anatomical areas." Said term includes, by way of illustration only, the following:

- (i) **Adult Arcade.** An establishment where one or more motion picture projectors, slide projectors or similar machines, for viewing by five or fewer persons each, are used to show films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by an emphasis upon the depiction or description of "specified sexual activities" or "specified anatomical areas."

- (ii) Adult Bookstore. An establishment having as a substantial or significant portion of its stock-in-trade, and offers for sale one or more of the following: books, magazines, and other periodicals which are substantially devoted to the depiction of "specified sexual activities" or "specified anatomical areas."
- (iii) Adult Gift Store. An establishment having as a substantial or significant portion of its stock in trade, and offers for sale one or more of the following: instruments, devices or paraphernalia which are designed for use in connection with "specified sexual activities" (i.e., "adult gifts.")
- (iv) Adult Motion Picture Theater. An enclosed building used for presenting material in the form of motion picture film, video tape or other similar means, and in which a substantial portion of the total presentation time is devoted to the depiction of "specified sexual activities" or "specified anatomical areas" for observation by persons therein.
- (v) Adult Theater. A theater, concert hall, auditorium or similar establishment in which a substantial portion of the total presentation time is devoted to live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities."
- (vi) Sexual Encounter Establishment. An establishment which provides a place where two or more persons may congregate, associate or consort in connection with "specified sexual activities" or the exposure of "specified anatomical areas." This definition does not include an establishment where a medical practitioner, psychologist, psychiatrist or similar professional person licensed by the State of California engages in sexual therapy.
- (b) Specified Sexual Activities. This term shall be used herein to mean:
  - (i) Human genitals in a state of sexual stimulation or arousal;
  - (ii) Acts of human masturbation, sexual intercourse or sodomy;
  - (iii) Fondling or other erotic touching of human genitals, pubic region, buttock or female breast.
- (c) Specified Anatomical Areas. This term shall be used herein to mean:
  - (i) Less than completely and opaquely covered human genitals, pubic region, buttock, and female breast below a point immediately above the top of the areola; and
  - (ii) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.
- (3) Location.  
 No person shall place, maintain, own or operate any adult entertainment activity, as herein defined, in the following locations:
  - (a) Within 500 feet of any parcel of real property zoned primarily for residential use; or
  - (b) Within 500 feet of any parcel of real property on which is located any of the following facilities:
    - (i) A school primarily attended by minors;
    - (ii) A church which conducts religious education classes for minors;
    - (iii) A public park, playground or other recreational facility;
    - (iv) A museum;
    - (v) A library.



- (c) Within 500 feet of any other adult entertainment activity as herein defined.
- (4) Public Display of Certain Matter Prohibited.  
No person shall place, maintain, display or exhibit any material in a manner which exposes to public view photographs or illustrations of "specified sexual activities" or of poses which emphasize or direct the viewer's attention to "specified anatomical areas." As used herein, "exposes to public view" means exposes to the view of persons outside the building in which said material is placed, maintained or displayed.
- (5) Discontinuance of Nonconforming Activities.  
No later than September 19, 1980, all adult entertainment activities made nonconforming by reason of the provisions hereof, except those activities rendered nonconforming because of being within 500 feet of any other adult entertainment activity, shall be discontinued or shall be brought into full conformance with the provisions hereof, except that such activities may be allowed to continue for an additional period upon the approval of a variance with the finding that the activity is obligated by written lease entered into before the effective date of this section for a period exceeding two years from such effective date, or that the activity involves investment of money in leasehold or improvements of such that a longer period is necessary to prevent undue financial hardship.

b. Alcoholic Beverage Outlet Regulations.

- (1) Purpose.  
In addition to the general purposes listed in Section 10-1.110: General Provisions, the specific purpose of the Alcoholic Beverage Outlet Regulations is to provide for the orderly integration of alcohol-related uses, including the sale of wine and beer.
- (a) In adopting these regulations, it is recognized that the proliferation of establishments selling alcoholic beverages within the City of Hayward presents problems that affect residents, businesses, property owners, visitors, and workers of Hayward.
- (b) Problems which can result include, but are not limited to, crime, littering, loitering, public intoxication, disturbance of the peace, discouragement of more desirable and needed commercial uses, and other similar problems connected primarily with the regular congregation of persons around establishments engaged in the sale of alcoholic beverages for consumption on or off the premises.
- (c) It is also recognized that existence of such problems creates a serious impact on the peace, health, safety and welfare of residents of nearby areas including fear for the safety of children and visitors to the area, as well as contributing to the deterioration of neighborhoods and concomitant devaluation of property and destruction of community values and quality of life.
- (d) These regulations are intended to ameliorate the types of problems identified above by restricting the location of establishments selling alcoholic beverages in relation to one another and their proximity to facilities primarily devoted to use by children and families with children.
- (e) The use permit process is a means to review the effects of establishments selling alcoholic beverages on neighboring uses on a case by case basis, and to prevent the undue concentration of and undesirable impacts on the community stemming

from such uses by the imposition of reasonable conditions upon the operation of such uses.

(2) Definitions.

For the purpose of these regulations, certain terms and words shall have the following meanings:

- (a) **Alcoholic Beverage Sales Commercial Activity.** “Alcoholic Beverage Sales Commercial Activity” means the retail sale, for on- or off-premises consumption, of liquor, beer, wine, or other alcoholic beverages, excluding full-service restaurants that comply with the below-listed definition of full-service restaurant.
  - (i) “On-sale Alcohol-related Commercial Activity” shall mean any business wherein alcoholic beverages are sold on the premises and are to be consumed on the premises including all related buildings, structures, open spaces and parking areas. This shall also include any facility, inclusive of a portion thereof, which is rented out for special event functions wherein alcoholic beverages are sold or given away on the premises and are to be consumed on the premises. This section shall be interpreted to include bars, exclusive of night clubs.
  - (ii) “Off-sale Alcohol-related Commercial Activity” shall mean any business that sells alcoholic beverages in original, unopened packages for consumption off of the premises where sold.
  - (iii) “Liquor store” shall mean any business of less than 10,000 square feet (gross) where beer, wine or distilled spirits are sold for off-sale consumption.
- (b) **Downtown Entertainment Area.** The “Downtown Entertainment Area” shall mean that area generally between A and D Streets and between Second Street and Grand Street.
- (c) **Restaurant – Full Service.** A “full service restaurant” shall mean a sit-down commercial activity which is regularly used and kept open for the primary purpose of serving meals to guests for compensation and which has suitable kitchen facilities connected therewith, containing conveniences for cooking an assortment of foods which may be required for such meals, and which may include an incidental bar, cocktail lounge, or other area designated primarily for the service of alcohol on the premises, which operates as part of the restaurant and is subservient to the primary function of the establishment, and which maintains a minimum of 60 percent of its gross receipts from the sale of meals. For purposes of these regulations, a full-service restaurant does not include fast food restaurants or delicatessens. For the purpose of verifying compliance with the foregoing sales requirement, the sales receipts, accounting ledgers, and any other business records pertaining to the sales of food and alcohol shall be open for inspection by the Chief of Police or his or her designee during regular business hours of the restaurant upon 72 hours’ prior written notice. To be considered a full service restaurant, the commercial activity must meet the criteria listed below. Restaurants that fail to meet these criteria must apply for a conditional use permit. In the event that the establishment fails to obtain a conditional use permit, the establishment shall be in violation of these regulations and subject to the penalties and enforcement provisions set forth in Section 10-1.2850 of the Zoning Ordinance.

- (i) A full service restaurant shall serve meals to guests at all times the commercial activity is open for business. An establishment shall not be considered a full-service restaurant if it serves alcohol without meal service being provided.
- (ii) Any bar/lounge area cannot remain open when the dining area is closed. However, the dining area may be open while the bar/lounge area is closed.
- (iii) A full service restaurant shall not offer or permit any form of live or recorded entertainment; including by way of example and not limited to, the playing of recorded music by a disc jockey, karaoke, dancing, video or mechanical games. Background music complementary to a dining experience may be provided as determined by the Chief of Police.
- (iv) A full service restaurant shall not offer any type of reduced price promotion for alcoholic beverages served on the premises.
- (v) A full service restaurant is one that abides by all of the following performance standards:
  - (a) That it does not result in jeopardizing or endangering the public health or safety of persons residing, visiting, or working in the surrounding area; and
  - (b) That it does not result in repeated nuisance activities within the premises or in close proximity of the premises, including but not limited to disturbance of the peace, illegal drug activity, public drunkenness, drinking in public, harassment of passersby, gambling, prostitution, sale of stolen goods, public urination, theft, assaults, batteries, acts of vandalism, excessive littering, loitering, graffiti, illegal parking, excessive loud noises, especially in the late night or early morning hours, traffic violations, curfew violations, lewd conduct, or police detentions and arrests; and
  - (c) That it does not result in violations to any applicable provision of any other city, state, or federal regulation, ordinance or statute; and
  - (d) That its upkeep and operating characteristics are compatible with and will not adversely affect the livability or appropriate development of abutting properties and the surrounding neighborhood; and
  - (e) That all its employees, except those employees with no customer contact, attend and successfully complete a training class on Responsible Beverage Service within 90 days of being employed; and
  - (f) That it complies with all of the Retail Operating Standards of the California Department of Alcoholic Beverage Control; and
  - (g) That it does not sell alcoholic beverages to minors.
- (d) Night Club. "Night club" shall mean any alcoholic beverage sales commercial activity which engages in the sale of alcoholic beverages in conjunction with providing live entertainment (including the playing of recorded music by a disc jockey) or dancing between the hours of 6:00 p.m. to 2:00 a.m. regardless of whether such establishment is simultaneously offering full restaurant meal service or charges an entry fee or increases the sale price of beverages.

(3) Conditional Use Permit for New Establishments.

Except as otherwise provided herein, no new alcoholic beverage sales commercial activity may sell alcoholic beverages for either on-site or off-site consumption unless a conditional use permit has been approved for such establishment. A conditional use permit shall not be required if the establishment is one of the following:

- (a) Retail stores having 10,000 square feet or more of floor area and which devote not more than 5 percent of such floor area to the sale, display, and storage of alcoholic beverages;
- (b) Full-service restaurants; or
- (c) Special event functions such as neighborhood or community festivals, provided all of the following criteria are met:
  - (i) The person, group, business, or organization sponsoring the event secures all applicable permits from the City of Hayward;
  - (ii) The person, group, business, or organization sponsoring the event obtains a temporary on-sale license from the State of California Department of Alcohol Beverage Control for each of the dates the event will be held; and
  - (iii) The duration of the event does not exceed three consecutive days or five days in any single calendar year.

(4) Posting of Conditions of Approval.

A copy of the conditions of approval for the conditional use permit must be kept on the premises of the establishment and posted in a place where it may readily be viewed by the general public.

(5) Findings.

- (a) In making the findings required by Section 10-1.3225 governing conditional use permits, the Planning Director, or the Planning Commission on referral or appeal, shall consider whether the proposed use will result in an undue concentration in the area of establishments dispensing alcoholic beverages.
- (b) The Planning Commission, or City Council on referral or appeal, shall also consider whether the proposed use will detrimentally affect the surrounding neighborhood after giving consideration to the distance of the proposed use from the following: Residential structures, churches, schools, public playgrounds and parks, recreation centers, and other similar uses.

(6) Application For Conditional Use Permit.

In addition to the requirements set forth in Section 10-1.2815 and any other applicable City regulation, an application for a conditional use permit shall set forth and include the following:

- (a) The type of Alcoholic Beverage Control license the applicant is seeking for the establishment; and
- (b) The true and complete name and address of each lender or share holder with a 5 percent or more financial interest in the proposed business or any other person to whom a share or percentage of the income of the establishment is to be paid; and
- (c) A statement by the applicant indicating whether or not such applicant has at any time been convicted of any crime other than minor traffic offenses and, if so, the nature of the crime for which the applicant was convicted and the date and jurisdiction of the conviction.

(7) Requirements For New On-Sale Alcohol-Related Commercial Activities.

- (a) With the exception of the downtown entertainment area, no new on-sale alcohol-related commercial activity shall be permitted within a radius of 500 feet of any other on-sale or off-sale alcohol-related commercial activity (with the exception of new or existing establishments which are exempted by subsection (3) above), or within 500 feet of any school, public park, library, playground, recreational center, day care center, or other similar use.
- (b) Notwithstanding the above:
  - (i) Outside the downtown entertainment area, the Planning Commission may recommend to the City Council a lesser alternative distance requirement in a particular instance, if it is found that the public convenience and necessity will be served by an alternate space requirement and that alternative measures to assure public health and safety are provided with respect to sale and use of alcoholic beverages.
  - (ii) Within the downtown entertainment area, no on-sale alcohol-related commercial activity shall be established or maintained within a radius of 100 feet of any off-sale alcohol-related commercial activity (with the exception of new or existing establishments which are exempted by subsection (3) above), or of any school, public park, library, playground, recreational center, day care center, or other similar use. However, on-sale alcohol related commercial activities which front B Street between Watkins Street and Foothill Boulevard, or Main Street between A and C Streets, shall not be restricted with respect to proximity to any school, public park, library, playground, recreational center, day care center, or other similar use.
  - (iii) Within the downtown entertainment area, no more than two on-sale alcohol-related commercial activities shall be permitted per block side or face, with the exception of new or existing establishments that are exempted by subsection (3) above. Determination of location on a block side or block face shall be made by referring to the street address of the on-sale alcohol-related commercial activity on a block between the two immediate cross streets.

(8) Requirements For New Off-Sale Alcohol-Related Commercial Activities.

With the exception of the downtown entertainment area, no new off-sale alcohol-related commercial activity will be permitted within a radius of 500 feet of any other on-sale or off-sale alcohol-related commercial activity (with the exception of new or existing establishments which are exempted by subsection (3) above), or within 500 feet of any school, public park, library, playground, recreation center, day care center, or other similar use.

(9) Conditions.

To implement official City policy and to attain the purpose for requiring use permit approval, as stated in Section 10-1.3205 and in subsection (1) above, as well as the findings listed in Section 10-1.3225, the Planning Commission, or the City Council on referral or appeal, may attach to approvals such conditions as it deems necessary. Violations of any of these conditions unless explicitly stated otherwise shall be independent grounds for permit revocation. These conditions may include, but are not limited to:

- (a) Commission by the permittee or any employee of the permittee of a criminal offense for which 1) the permitted establishment was the location where the offense was committed or where there is a direct correlation between the permittee's establishment and the criminal offense; and 2) Such criminal offense is found to be detrimental to the public health, safety, or general welfare.
  - (b) Alcoholic beverage sales commercial activities shall provide exterior lighting that is adequate for the illumination and protection of the premises. Lighting shall be installed in such a manner that it does not shine into adjacent residential properties.
  - (c) Alcoholic beverage sales commercial activities with off-sale privileges shall prominently post a sign on the exterior of the premises stating that consumption of alcoholic beverages in public is prohibited by law pursuant Chapter 4 of the Hayward Municipal Code.
  - (d) Alcoholic beverage sales commercial activities shall discourage patrons and visitors from loitering in public rights-of-way, parking areas, and in front of adjacent properties.
  - (e) No beer or malt liquor shall be sold in bottles or containers larger than 12 ounces for off-site consumption;
  - (f) Beer and malt liquor in containers of 12 ounces or less shall not be sold in units of less than one six-pack for off-site consumption;
  - (g) Wine shall not be sold in bottles or containers smaller than 750 ml and wine coolers shall not be sold in containers smaller than 12 ounces and in units of less than one four-pack for off-site consumption;
  - (h) Distilled spirits shall not be sold in bottles or containers smaller than 750 ml for off-site consumption; and
  - (i) Consumption of alcoholic beverages shall not be permitted on any property adjacent to the licensed premises which is also under the control of the owner of the liquor establishment;
  - (j) Alcoholic beverage sales commercial activities shall maintain trash and garbage storage areas that are enclosed by a solid fence or wall and screened from the view of abutting properties or the public right-of-way.
- (10) Existing Establishments Selling Alcoholic Beverages.
- Any alcoholic beverage sales commercial activity lawfully operating prior to the effective date of these regulations and licensed by the State of California for the retail sale of alcoholic beverages for on-site or off-site consumption may continue such operations after the effective date of these regulations. Upon the occurrence of either of the following, however, operation of the establishment shall require approval of a conditional use permit:
- (a) The alcoholic beverage sales commercial activity changes its type of liquor license within a license classification; or
  - (b) There is a substantial change in the mode or character of operation. As used herein, the phrase "substantial change of mode or character of operation" shall include, but not be limited to, expansion in the amount of area devoted to the sales or consumption of alcoholic beverages, a pattern of conduct in violation of other laws or regulations, or a cessation of use for a period of six months or more.

(11) Modifications in Permitted Alcoholic Beverage Sales Commercial Activities.

Any permitted alcoholic beverage sales commercial activity operating under either a conditional or an administrative use permit after the effective date of these regulations shall apply for a modification of its use permit pursuant to Section 10-1.3260 of the Hayward Municipal Code when either of the following occurs:

- (a) The alcoholic beverage sales commercial activity changes its type of liquor license within a classification; or
- (b) There is a substantial change in the mode or character of operations of the alcoholic beverage sales commercial activity as defined in subsection (11) above.

(12) Notice.

In addition to the notice required by Section 10-1.2820, in the case of applications for conditional use permits or appeals of administrative use permits pursuant to these regulations, notice shall also be provided to occupants of buildings located on parcels within 300 feet of the perimeter of the subject property for which use permit approval is sought.

(13) Letter of Public Convenience or Necessity.

The Planning Director is authorized to issue letters of public convenience or necessity to the State Department of Alcoholic Beverage Control for alcoholic beverage sales commercial activities that have approved conditional or administrative use permits or where the establishment engaged in the sale of alcoholic beverages is exempt from a conditional use permit.

c. Catering Truck Standards.

All catering truck operations shall comply with the following standards:

- (1) Catering trucks shall only park on private property with the permission of said property owner(s).
- (2) Catering trucks shall not park on any City streets, rights-of-way or property.
- (3) Catering trucks shall not be located on a single parcel more than 20 minutes at a time.
- (4) Catering trucks shall not be located within 300 yards of a food vendor as defined in this Ordinance.
- (5) Catering trucks shall not return to the same location within less than two hours.
- (6) Catering trucks shall obtain all necessary approvals for the County Health Department and City of Hayward Police Department.

d. Christmas Tree and Pumpkin Patch Lot Regulations.

All Christmas tree and pumpkin patch lots shall comply with the following standards:

- (1) Pumpkin Patch lots shall not be established before October 1 of each year and Christmas tree lots shall not be established before November 22 of each year. Annual permits must be obtained from the Fire Department and the Building Division.
- (2) Prior to opening for business, all Fire Department and the Building Division permits shall be obtained. The lot shall be maintained and operated in compliance with all Fire Department and the Building Division requirements.
- (3) No merchandise, equipment, vehicles, refuse, or other material associated with the proposed lot shall block circulation or parking aisles outside fenced areas .

- (4) No aspect of the proposed operation shall impede access to any public driveway, nor any parking areas required for the operation of surrounding uses.
- (5) All parking and loading must be done on the lot and not on any public street. Parking areas shall be surfaced to prevent mud or dust from being tracked onto the public right-of-way.
- (6) An electrical permit must be obtained prior to installation of any lighting.
- (7) Fencing around the premises shall be properly stabilized.
- (8) Signs shall be confined to the designated lot area only and must not obstruct vision of motorists.
- (9) If sawdust or other similar material is used to cover the lot, it shall be kept moist.
- (10) A minimum of one employee shall be on the premises at all times to insure compliance with the conditions of approval.
- (11) All trees or pumpkins, merchandise, debris, fences, poles, hay or sawdust and other evidence of the use must be removed within 7 days after the Halloween or Christmas Holiday. To the maximum extent possible, all wood products must be recycled. While other recycling facilities may be used, it is preferred that all wood products such as trees, tree stands, and sawdust (but not including flock and tinsel) be recycled by drop-off at the City of Hayward Water Pollution Control Facility.
- (12) Notices must be conspicuously posted on the lot and distributed to customers at the point of sale providing information about the City of Hayward Christmas tree Recycling Program provided by the Office of Solid Waste Management.

e. **Garage Sales.**

Garage sales, also referred to as yard sales, shall not create a public nuisance as defined herein, and shall be limited to a maximum of four times per year per dwelling for single-family homes, and four times per year per development for multi-family areas.

f. **Livestock and Household Pets.**

(1) **Minimum Lot Area.**

The minimum lot area for any lot used to maintain livestock and other animals, except for household pets, whether a temporary use or principal use of the property, shall be the greater of either the minimum lot area specified in the zoning district in which the property is located or the area hereinafter specified:

- (a) For large and medium livestock, the minimum lot area shall be 20,000 square feet;
- (b) For exotic animals, poultry or other birds, the minimum lot area shall be 5,000 square feet, or greater, depending on the species of the animal, as determined by the Planning Director;
- (c) For apiaries, the minimum lot area shall be 40,000 square feet.

(2) **Maximum Number of Animals.**

The maximum number of livestock or any other animals allowed pursuant to this section is subject to a determination by the Planning Director that the site is suitable, including consideration of size, configuration and location, and can support the number of livestock or other animals without creating nuisance problems for



surrounding residential properties. In no case shall the number of livestock, as defined herein, kept or maintained on any lot exceed one large livestock for each 20,000 square feet of land contained in such parcel, or one medium livestock for each 10,000 square feet of land contained in a minimum 20,000 square foot parcel. Once a use permit is granted for a maximum number of livestock, that number of livestock may be permitted indefinitely even if fewer animals are kept on the site as long as there is at least one livestock continuously, i.e., where there has not been a total absence of livestock for six months or longer.

(3) Minimum Available Open Area.

All livestock or other animals shall be provided with the minimum available open area specified below (such area may include barns, stables, sheds or similar structures used to house animals):

- (a) For large livestock, the minimum available open area per animal shall be 5,000 square feet;
- (b) For medium livestock, the minimum available open area per animal shall be 2,500 square feet;
- (c) For poultry, the minimum available open area per animal shall be 200 square feet;
- (d) For exotic animals, the minimum available open area per animal shall be as determined by the Planning Director, based on the species of the animal.

(4) Buildings and Structures.

All animals shall be provided with adequate shelter or other protection from the elements. Buildings and structures used for the housing of animals shall be located behind the principal structure on the lot. Such buildings and structures may be located elsewhere on the lot due to topography or other special characteristics of the lot, subject to approval of the Planning Director.

(5) Maximum Height of Structures.

No building or structure used for the housing of animals shall be erected or maintained on any lot to a height greater than that permitted for accessory structures in the respective zoning district. A greater height may be permitted based on consideration of special characteristics of the lot, including, but not limited to, topography, lot size, and building placement, and subject to approval of the Planning Director.

(6) Minimum Setback Requirements.

All barns, stables, and other structures used for the housing of animals, except for household pets, on any lot shall be located not less than 20 feet from any property line and not less than 40 feet from any dwelling on the same or adjoining lot. The distances as specified in this subsection may be reduced or waived upon the finding that such distances are not necessary for the protection of nearby residences.

(7) Fence Requirements.

All areas containing livestock or other animals shall be enclosed by fences which are good, strong, substantial, and sufficient to prevent the ingress and egress of livestock or other animals. Such fences shall be designed and constructed of appropriate materials and be of an adequate height so as to control and contain such animals at all times, while avoiding injury to such animals, preventing such animals from reaching across any property lines, and of a design that does not detract from the appearance of the site or surrounding area.

(8) Maintenance of Livestock and Other Animals.

All livestock and other animals shall be kept or maintained so as to minimize and prevent production of flies, excessive odor, dust, noise, or other conditions detrimental to the community health and welfare, by applying the following minimum requirements:

- (a) Manure must be removed daily from the corral, stable, paddock, or other holding areas and stored in fly-tight containers, cans or holding boxes, until disposal; roosts, lofts, and rabbit hutches must be cleaned daily unless worm beds are maintained under the rabbit hutches. Composting or similar treatments may be permissible if performed to appropriate standards so as not to constitute a nuisance, as determined by Planning Director.
- (b) Watering troughs must be so constructed and located that they do not overflow excessively in the stall, corral or paddock area, as to promote mosquito larvae growth.
- (c) Hay must be stored in such a manner so as not to become a nesting place for rodents, i.e., stored in rodent-proof buildings or off the floor and away from walls, other material or equipment.
- (d) Grain feeds shall be stored in rodent-proof containers or buildings, i.e., metal cans or rodent-proof feed cribs; all other feed must be stored in vermin-proof containers.
- (e) The entire area set aside for the animals shall be cleared of all rubbish and debris.

(9) Livestock as a Legal, Nonconforming Use.

Livestock existing as a legal, nonconforming use may continue indefinitely as long as (a) the livestock have existed continuously in that six months have not passed when there were no livestock on the site, (2) the maximum number of livestock established as a nonconforming use is not increased, and (3) as long as there is no intensification of livestock, e.g., legal, nonconforming medium livestock may not be intensified by replacing them with large livestock. The burden of proof for establishing the legal, nonconforming status of livestock rests with the property owner subject to the endorsement of the Planning Director.

g. Manufactured Housing Regulations.

Manufactured housing to be installed on a lot shall have been constructed after July 1, 1976, and shall bear an insignia of approval under the National Mobile Home Construction and Safety Standards Act of 1974 and shall be erected in compliance with the following:

- (1) Shall be attached to a permanent foundation pursuant to Health and Safety Code Section 18551, and shall have all utility connections conform to all requirements of the City's Building, Plumbing, Electrical, and Mechanical Codes.
- (2) Shall be a minimum of 20 feet wide.
- (3) Shall have a roof constructed of asphaltic, wooden, glass fiber or tile materials.

- (4) Shall have wood, masonry or stucco siding which will extend to the ground (except when a solid masonry perimeter foundation is used, the siding need only extend to the top of the foundation).
- (5) Shall have an overhang or eave extending a minimum of 14 inches from the wall.
- (6) Shall be of a design which utilizes offsets and recesses in the exterior walls, similar to conventionally constructed housing, and have a floor height no more than 30 inches above the finished grade of the building pad.
- (7) Shall include a minimum 20-foot-wide garage (interior dimension) and/or landscaping where necessary to make the house compatible with surrounding residential development.
- (8) Shall conform with City of Hayward Design Guidelines and Hillside Design and Urban/Wildland Interface Guidelines.

**h. Outdoor Gatherings.**

- (1) Permit Required. No outdoor gathering of 275 or more people shall be held unless an administrative use permit has first been obtained.
- (2) Outdoor Gathering. Any assembly, music festival, carnival, show, circus, dance, exhibition, lecture, concert, rally, party, celebration, or similar event or activity which is:
  - (a) Open to the public or to which members of the public are invited or admitted either for a charge or free of cost; and
  - (b) Held out of doors or other than in a permanent structure that was constructed for the purpose of or constructed so that it can be used for conducting such event or activity; provided, however, that the incidental use of any patio, courtyard, deck, or other area adjacent to and outside a permanent structure (that is authorized as a permitted primary or conditional use) by participants at the event or activity shall be considered use of the permanent structure for the purposes of this provision.
- (3) Application. An application for an administrative use permit to hold an outdoor gathering shall be submitted to the Planning Director on a form provided for such purpose, setting forth the following:
  - (a) The location and legal owner of the premises on which the outdoor gathering is to be held;
  - (b) The number of people the applicant will admit to the outdoor gathering, his plans to limit admittance to the outdoor gathering to such number, and the date(s) and times during which the gathering is to be held;
  - (c) The applicant's plans, including facilities for the handicapped where physically feasible, for provisions of potable water, toilet facilities, solid waste disposal, and if required by the Health Officer of Alameda County, emergency medical treatment;
  - (d) The applicant's plans for provision of parking spaces, including spaces for the handicapped;
  - (e) The applicant's plans for illuminating the premises if any part of the gathering is to be held within one hour before sunset or after dark;

- (f) A description of all sound amplification equipment the applicant plans to use and the intensity in decibels at the property line of the premises upon which the gathering is to be held; and
  - (g) The applicant's plans for provision of fire control devices and method of vehicular and pedestrian access to and from the gathering.
- (4) Permit Issuance. An administrative use permit for an outdoor gathering may be issued if the applicant shows that the following conditions have been met:
- (a) The applicant is the owner of the premises on which the gathering is to be held or the owner of the premises has consented to the use of the premises for the outdoor gathering;
  - (b) The Chief of Police has approved the applicant's plans to limit attendance at the outdoor gathering to the number of people set forth in the application, maintain order, and assure compliance with all applicable laws and regulations, including but not limited to, the provisions of this ordinance and the conditions of the permit under which the outdoor gathering is held. The Chief of Police shall approve the applicant's security plans if one security guard, who may be a peace officer or other person acceptable to the Chief of Police, is provided for every 275 persons expected to attend the outdoor gathering and the sole responsibility of such guard(s) is to limit attendance at the outdoor gathering to the number of people set forth in the permit, maintain order, and enforce all laws, regulations, and permit conditions;
  - (c) The Health Officer of Alameda County has approved the applicant's plans, including facilities for the handicapped where physically feasible, for provisions of potable water, toilet facilities, solid waste disposal, and if required by the Health Officer, emergency medical treatment;
  - (d) The Traffic Engineer has approved the applicant's plans for provisions of parking spaces, including provision for spaces for the handicapped where physically feasible. The Traffic Engineer shall approve the applicant's plans for the provision of parking if finds that parking spaces are provided for one of each four persons the applicant will admit to the outdoor gathering, safe access to and from such parking spaces is provided, and such parking spaces will be graded, marked, and separated by a physical device from all pedestrians;
  - (e) The Public Works Director has approved the applicant's plans for illuminating the premises upon which the outdoor gathering is planned if any part of the gathering is expected to occur within one hour before sunset or after dark. The Public Works Director shall approve illumination plans that provide for safe lighting equipment which illuminates at the following levels:
    - (i) Open areas to be used by attendees at 10-foot candle intensity;
    - (ii) Parking and pedestrian access areas at 5-foot candle intensity; and
    - (iii) Toilet facility areas at 50-foot candle intensity;
  - (f) The Planning Director has approved the applicant's plans for any use of sound amplifying equipment. The Planning Director shall approve sound amplification plans that limit noise levels to no more than 60 L<sub>dn</sub> or CNEL

(db) at the property line of the premises or is lawfully used for residential use or abuts property zoned or lawfully used for residential use and no more than 70 L<sub>dn</sub> or CNEL (db) at the property line of the premises upon which the gathering is to be held, if such premises is neither zoned nor used for residential use nor abuts property that is zoned or used for residential use; provided, however, that the Planning Director shall not approve any sound amplification plans that call for the use of sound amplification equipment between the hours of 10:00 p.m. and 6:00 a.m.; and

- (g) The Fire Chief has approved the applicant's plans for provisions for fire control devices and plan(s) for vehicular and pedestrian ingress and egress to the site, including emergency vehicles.

i. **Private Street Criteria.**

Approval of a private way as a private street (not part of a subdivision or other development project) for the purpose of establishing a street frontage for a lot shall be governed by the following:

- (1) Overall, minimum right-of-way shall be 25 feet per the City Standard Design Details, and paved access shall be not less than 10 feet in width for a one-way driveway and 12 feet in width for a two-way driveway. The access may be increased up to 24 feet in width and incorporate a turn-around area, as such is determined to be necessary, giving consideration to traffic volumes, location, land use, and other relevant factors.
- (2) The access strip shall be improved to public street standards. Such improvements shall be installed, or the installation shall be guaranteed to the satisfaction of the City, prior to issuance of a building permit for any use fronting on the private street.
- (3) In the instance that multiple lots are to be served by one private street, the following criteria may apply:
  - (a) Six or fewer lots require a minimum of a 20-foot wide paved private driveway.
  - (b) Seven or more lots require a minimum of a 24-foot wide paved private street.
  - (c) Six or fewer lots may be served by a hammerhead.
  - (d) Seven or more lots shall be served by a cul-de-sac.
- (4) The above requirements may be amended after evaluating the following:
  - (a) Existing and estimated future volume of traffic.
  - (b) Existing, proposed, and potential development to be served by access.
  - (c) Adequacy of drainage facilities.
  - (d) Condition of roadway and provisions for maintenance.
  - (e) Suitability for emergency vehicle access and utility right-of-way.
  - (f) Alignment and grade.
  - (g) Need for off-street parking or pathway to serve adjacent uses.

- (5) Before approving a private street, the Planning Commission shall find that:
  - (a) The private street is physically adequate to provide access for pedestrians and vehicles.
  - (b) There is a right, exclusive or non-exclusive, to use the private street on a permanent basis which is appurtenant to the subject lot(s).
  - (c) The private access will not conflict with the General Plan.
- (6) Requests for approval shall be considered by the Planning Commission which shall recommend approval, conditional approval, or denial. Upon review by the Commission, said request shall be then considered by the City Council which shall approve, conditionally approve, or deny said request. The action of City Council is final.

j. **Recycling Facilities for Redemption or Donation of Reusable Materials.**

The purpose of this section is to make redemption and recycling of reusable materials convenient to the consumer in order to reduce litter and increase the recycling of reusable materials in accordance with the 1986 California Beverage Container Recycling and Litter Reduction Act of 1986 (Pub. Res. Code § 14500, et seq.).

(1) **Definitions.**

- (a) **Recyclable Material:** Material including but not limited to metals, glass, plastic, and paper, which are intended for reuse, remanufacture, or reconstitution for the purpose of using the altered form. Recyclable material may include used motor oil collected and transported in accordance with sections 25250.11 and 25143.2(b)(4) of the California Health and Safety Code.
- (b) **Recycling Facility:** A center for the collection and/or processing of recyclable materials. A certified recycling facility or certified processor means a recycling facility certified by the California Department of Conservation as meeting the requirements of the California Beverage Container Recycling and Litter Reduction Act of 1986. A recycling facility does not include storage containers or processing activity located on the premises of a residential, commercial, or manufacturing use and used solely for the recycling of material generated by that residential property, business or manufacturer. Recycling facilities may include the following:
  - (i) **Collection Facility:** A center for the acceptance by donation, redemption, or purchase of recyclable materials from the public. Such a facility does not use power-driven processing equipment except for reverse vending machines. Collection facilities may include the following:
    - a. Reverse vending machine(s) occupying an area of less than 50 square feet;
    - b. Small collection facilities which occupy an area of not more than 500 square feet, and may include:
      - aa. A mobile unit;
      - bb. Bulk reverse vending machines or a grouping of reverse vending machines occupying more than 50 square feet;
      - cc. Kiosk-type units which may include permanent structures;
      - dd. Unattended containers placed for the donation of recyclable

materials.

- c. Large collection facilities which may occupy an area of more than 500 square feet and may include permanent structures.

(ii) Reverse Vending Machine(s):

- a. An automated mechanical device which accepts at least one or more types of empty beverage containers including, but not limited to, aluminum cans, glass and plastic bottles, and issues a cash refund or a redeemable credit slip with a value not less than the container's redemption value as determined by the state. A reverse vending machine may sort and process containers mechanically provided that the entire process is enclosed within the machine. In order to accept and temporarily store all three container types in a proportion commensurate with their relative redemption rates, and to meet the requirements of certification as a recycling facility, multiple grouping of reverse vending machines may be necessary.
- b. A bulk reverse vending machine is a reverse vending machine that is larger than 50 square feet; is designed to accept more than one container at a time; and will pay by weight instead of by container.

- (iii) Mobile Recycling Unit: An automobile, truck, trailer or van, licensed by the Department of Motor Vehicles which is used for the collection of recyclable materials. A mobile recycling unit also means the bins, boxes or containers transported by trucks, vans, or trailers, and used for the collection of recyclable material.

(2) Permit Issuance.

- (a) Reverse vending machine(s) located within commercial buildings, or which are located upon commercial or industrial zoned property within a ½ mile radius of each supermarket which conducts \$2 million or more in sales a year, and meet the following criteria are primary uses and do not require permits by the City of Hayward.
  - (i) The reverse vending machine(s) is certified by the California Department of Conservation as meeting the requirements of the California Beverage Container Recycling and Litter Reduction Act of 1986;
  - (ii) The reverse vending machine(s) is established in conjunction with a commercial use, community service facility, or industrial use provided the property is in compliance with the zoning, building and fire codes of the City of Hayward;
  - (iii) The reverse vending machine(s) does not obstruct pedestrian or vehicular circulation, including the pathway required for the handicapped access;
  - (iv) The reverse vending machine(s) does not occupy parking spaces required by the primary use;
  - (v) The reverse vending machine(s) does not occupy more than 50 square feet of floor space per installation, including any protective enclosure, and is no more than 8 feet in height;
  - (vi) The reverse vending machine(s) is clearly marked to identify the type of material to be deposited, operating instructions, and the identity and phone

- number of the operator or responsible person to call if the machine is inoperative;
- (vii) The reverse vending machine(s) is maintained in a clean, litter-free condition on a daily basis;
- (viii) The operating hours are at least the operating hours of the host use;
- (ix) The area is illuminated to ensure comfortable and safe operation if operating hours are between dusk and dawn;
- (b) An administrative use permit for small collection facilities located in commercial or industrial areas within a ½ mile radius of each supermarket which conducts \$2 million or more in sales a year, shall be issued if the applicant shows that the following conditions have been met:
  - (i) The small collection facility shall be established in conjunction with an existing commercial use, community service facility, or industrial use which is in compliance with the zoning, building, and fire codes of the City of Hayward;
  - (ii) The small collection facility shall be no greater than 500 square feet and occupy no more than 5 parking spaces not including space that will be periodically needed for removal of materials or exchange of containers;
  - (iii) The small collection facility shall be set back at least 10 feet from any property line adjacent to property developed with residential uses and shall not obstruct pedestrian or vehicular circulation;
  - (iv) The small collection facility shall accept only glass, metals, plastic containers, papers and reusable items, not including motor oil;
  - (v) The small collection facility shall use no power-driven processing equipment except for reverse vending machines;
  - (vi) The small collection facility shall be secured from unauthorized entry or removal of material, and a collection schedule shall be posted;
  - (vii) All recyclable materials shall be stored in containers or in the mobile unit vehicle, and materials shall not be left outside of containers when attendant is not present;
  - (viii) The small collection facility shall be maintained free of litter and any other undesirable materials, and the area about the machines shall be swept and cleared each day. Mobile facilities, at which truck or containers are removed at the end of each collection day, shall be swept at the end of each collection day;
  - (ix) The small collection facility shall not exceed noise levels of 60 DBA as measured at the property line of residentially zoned or occupied property, other sites shall not exceed 70 DBA;
  - (x) Attended facilities located within 100 feet of a property zoned or occupied for residential use shall operate only during the hours between 9:00 a.m. and 7:00 p.m.;
  - (xi) Containers for the 24-hour donation of materials shall be at least 50 feet from any property zoned or occupied for residential use unless waived by the Planning Director;
  - (xii) Containers shall be clearly marked to identify the type of material which may be deposited; the facility shall be clearly marked to identify the name and



telephone number of the facility operator and the hours of operation, and display a notice stating that no material shall be left outside the recycling enclosure or containers;

(xiii) Signs may be provided as follows:

- aa.. Recycling facilities may have identification signs with a maximum of 20 percent per side or 16 square feet, whichever is larger, in addition to informational signs required in Section (xii) above; in the case of a wheeled facility, the side will be measured from the pavement to the top of the container;
- bb. Directional signs, bearing no advertising message, may be installed with the approval of the Planning Director if necessary to facilitate traffic circulation, or if the facility is not visible from the public right-of-way as determined by the Planning Director;
- cc. The Planning Director may authorize increases in the number and size of signs upon finding that it is compatible with adjacent businesses;

(xiv) The small collection facility shall not impair the landscaping required by the City for any concurrent use;

(xv) No additional parking spaces will be required for customers of a small collection facility located at the established parking lot of a host use. One space shall be provided for the attendant, if needed;

(xvi) Mobile recycling units shall have an area clearly marked to prohibit other vehicular parking during hours when the mobile unit is scheduled to be present;

(xvii) Occupation of parking spaces by the facility and by the attendant may not reduce available parking spaces below the minimum number required for the primary host use unless all of the following conditions exist:

- aa. The facility is located in a convenience zone or a potential convenience zone as designated by the California Department of Conservation;
- bb. A parking study shows that existing parking capacity is not already fully utilized during the time the recycling facility will be on the site;
- cc. The permit shall be reconsidered at the end of 18 months;
- dd. A reduction in available parking spaces in an established parking facility may then be allowed as follows:

◆ For a commercial or industrial host use:

| <u>No. of Available<br/>Parking Spaces</u> | <u>Maximum<br/>Reduction</u> |
|--|------------------------------|
| 0-25                                       | 0                            |
| 26-35                                      | 2                            |
| 36-49                                      | 3                            |
| 50-99                                      | 4                            |
| 100+                                       | 5                            |

- ◆ For a community facility host use:  
A maximum of five spaces reduction will be allowed when not in conflict with parking needs of the host use.

(xviii) The area is illuminated to ensure comfortable and safe operation if operating hours are between dusk and dawn;

k. **Vehicle Parking, Repair, Display, and Storage Requirements.**

The term "vehicle" as used in this section shall include an automobile or truck (excluding truck tractor or any vehicle exceeding a maximum gross weight limit of 6,000 pounds of gross vehicle weight) recreational vehicle, trailer, boat mounted on trailer, special interest vehicle, or other vehicle referenced in California Vehicle Code section 5051, and other vehicles of similar kind and use. In all zoning districts, use of any kind of vehicle as defined herein for living or sleeping purposes shall be prohibited except within mobile homes within an approved mobile home park.

(1) **Single-Family Residential Uses.**

(a) **Parking and Storage in Front Yards.** Vehicles shall be parked in the required front yard only on the paved driveway which provides direct access to the garage from a public street or an approved private street, perpendicular to the street, or on a curved driveway.

(b) **Parking or Storage in Other Than Front Yards.**

Parking or storage of vehicles in areas other than the front yard is permitted subject to the following requirements:

(i) No vehicle shall be parked or stored in a required side yard or side-street yard with the following exceptions: recreational vehicles that are not self-propelled, and are less than 6 feet in height, such as a boat, compact trailer tent or similar recreational vehicle can be stored in a required side yard if screened from view from the street by a 6 foot-high solid fence.

(ii) Parking or vehicle storage areas shall be paved with asphaltic or Portland Cement concrete and conform to City standards. A secondary driveway which provides access to a recreational vehicle storage area may be constructed with concrete, asphalt, or rock or concrete wheel tracks.

(iii) Open parking or vehicle storage areas located on lots less than 10,000 square feet in area shall not exceed 500 square feet in area (700 square feet for lots 10,000 feet or larger).

(iv) Open or covered parking areas, and garages or carports exceeding 120 square feet in area, shall be located no less than 5 feet from the side or rear property line and shall conform to all other requirements of the Zoning Ordinance and Building Code.

(2) **Multi-Family Residential Uses - Prohibited Vehicles.**

Parking or storage of truck tractors or vehicles that are not self-propelled (trailers, boats mounted on trailers, and other vehicles or equipment of similar kind and use) are prohibited except within designated storage areas approved

- as part of the site plan review, use permit, planned development or building permit.
- (3) Display and Sale of Motor Vehicles. Display for sale of one motor vehicle, boat, trailer, motorhome, or other vehicle is permitted as an accessory residential use, provided said vehicle is registered to a person who currently resides on the property. Display for sale of any vehicle on any property not approved for such use is unlawful, and legal action may be taken against the vehicle owner, property owner, or both.
- (4) Vehicle and Boat Repair. It shall be unlawful and a public nuisance for any person to engage in, or any property owner to allow to occur, vehicle or boat repair in any residential zone:
- (a) Upon any vehicle which is not registered to a current occupant of the premises where the work is being performed; or
  - (b) Upon more than two (2) vehicles at one time on the same premises or by the same person; or
  - (c) Outside a fully enclosed structure for uses defined as major automobile repair as defined in Section 10-1.000 of this Ordinance. Minor automobile repair may be performed outside a fully enclosed structure where elapsed time between the beginning and end of the repair does not exceed forty-eight (48) hours. Vehicle painting, other than spot painting, shall not be permitted in residential zones.

*Section 10-1.2735 k. amended by Ord. 03-08, adopted May 27, 2003*

*Section 10-1.2735 b. repealed and replaced by Ord. 06-03, adopted January 24, 2006*

*Section 10-1.2735 b. amended by Ord. 10-01, adopted January 5, 2010*